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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,270	07/14/2005	Gerth Moberg	173.937USN	5111

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EXAMINER

GRAHAM, MARK S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/542,270

Applicant(s)

MOBERG, GERTH

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-13 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim 12 is objected to because it changes the terminology of reference numeral (12) from "housing" as recited in claim 1 to "box."

Claim 10 is objected to because the "at below" language is confusing.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6-9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moberg '948 (Moberg) in view of Nesler et al. (Nesler).

Moberg discloses the device of claim 1 with the exception of the type of particular material (3) used in the housing. However, as disclosed by Nesler it is known in the art to use rubber particulate material, which the examiner takes official note of as an adhering material with regard to spent projectiles. It would have been obvious to one of ordinary skill in the art to have used such a material as Moberg's material 3 to stop and contain projectiles. Concerning the limitation as to "stationary non-flowable" in claim 1, note Col. 3, lines 37-42 of Moberg. The angle of the device may be such that no means is necessary to prevent movement of the particulate material. This inherently means that the angle is less than the angle of repose and that the material is not flowable.

Concerning claim 2, note that Nesler teaches a rectangular housing above the container for supplying particular material and which includes a resilient front layer 51. It would have been obvious to one of ordinary skill in the art to have provided such with Moberg's device as well to supply particulate material to the container.

Regarding claim 7, note Fig. 3, which shows the perpendicular member at the front of the housing.

With regard to claims 8 and 9, as can be seen in Fig. 2 of Nesler an L-shaped wall supports a lid (L-shaped bracket at top of wall 92). Wall 92, protruding downwardly from the lid/bracket is considered the downwardly protruding protector.

Concerning claim 11, the top edge of Moberg's housing is considered the horizontal segment.

Regarding claim 12, the bottom surface of Moberg's housing is considered the area disposed outside the box.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of O'Neal. Claim 1 is obviated for the reasons explained in the claim 1 rejection with the exception of the inclined diverter. However, as disclosed by O'Neal such, 30, below the target area is known in the art. It would have been obvious to one of ordinary skill in the art to have provided such below targets on Moberg's device as well to prevent ricochets from the structure below the targets.

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

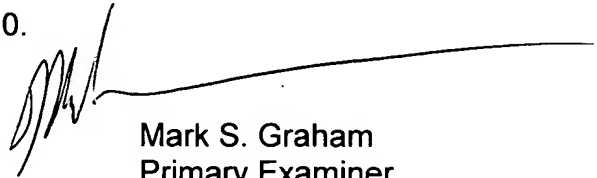
Larson, Moberg '761 and Vertanness have been cited for interest because they disclose similar devices.

Art Unit: 3711

Any inquiry concerning this communication should be directed to Mark S.

Graham at telephone number 571-272-4410.

MSG
5/27/06

A handwritten signature in dark ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Mark S. Graham
Primary Examiner
Art Unit 3711